

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RICHARD C. ELINE,)	CIVIL NO. 08-00321 ACK-KSC
)	
Petitioner,)	
)	ORDER OF DISMISSAL
vs.)	PURSUANT TO 28 U.S.C.
)	§ 1915(g)
CLAYTON FRANK,)	
)	
Respondent.)	
_____)	

ORDER OF DISMISSAL PURSUANT TO 28 U.S.C. § 1915(g)

On July 11, 2008, Petitioner Richard Eline filed an “Ex Parte Motion to Order” which is not associated with any case pending in this court. Eline is a Hawaii inmate confined in Saugaro Correctional Facility, Eloy, Arizona, and is proceeding pro se. Eline has not paid a filing fee and is presumably attempting to proceed *in forma pauperis* (“IFP”). The court DISMISSES this action without prejudice pursuant to 28 U.S.C. § 1915(g).

A prisoner may not bring a civil action under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim

upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

This court has previously found that Eline has had three or more prior prisoner actions dismissed as frivolous or as failing to state a claim. *See* Civ. No. 08-00244, Doc. No. 3, *citing Eline v. Kaneshiro*, Civ. No. 97-00937 (dismissed September 29, 1997); *Eline v. China Normalization Initiative*, Civ. No. 97-00893 (dismissed August 1, 1997); *Eline v. Patterson Broadcasting*, Civ. No. 97-00815 (dismissed August 1, 1997).¹

In his motion, Eline claims that the Hawaii legislature has passed a law that mandates his immediate transfer back to Hawaii for “extensive rehabilitation programs and/or vocational rehabilitation.” (Mot. 2). Eline does not allege or show that he is in imminent danger of serious physical injury, nor does it appear that Eline could make such a claim with regard to this motion.

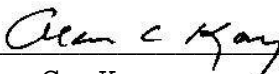
¹ Eline has also filed numerous other civil actions in the federal courts since 1993. All were dismissed for various reasons, including failure to state a claim, failure to prosecute, failure to pay, and frivolousness. *See e.g., Eline v. Penarosa*, Civ. No. 98-00277; *Eline v. Abbott*, Civ. No. 98-00029; *Eline v. Wagatsuma*, Civ. No. 97-00146; *Eline v. Wagatsuma*, Civ. No. 96-01048; *Eline v. Frank*, Civ. No. 96-00162; *Eline v. Santiago-Lopez*, Civ. No. 96-00001; *Eline v. Hall*, Civ. No. 95-00408; *Eline v. Santiago-Lopez*, Civ. No. 95-00135; *Eline v. Perry*, Civ. No. 94-00814; *Eline v. Fox Television*, Civ. No. 94-00680; *Eline v. KPOI FM*, Civ. No. 94-00656; *Eline v. Shimizu*, Civ. NO. 93-00770; *Eline v. Vanity Fair*, Civ. No. 93-00560; *Eline v. KDEO FM Radio*, Civ. No. 93-00479; *Eline v. Sumner*, Civ. No. 93-00471; *Eline v. Moon*, Civ. No. 93-00373; *Eline v. Iran*, Civ. No. 93-00357; and *Eline v. Bishop Estate*, Civ. No. 93-00317; *Eline v. MTV Inc.*, Misc. No. 93-0018.

Accordingly, Eline may not proceed IFP, and pursuant to 28 U.S.C. §§ 1915(a), 1915(g), this action is DISMISSED without prejudice to refile with submission of the \$350 filing fee. The Clerk is DIRECTED to close this file and terminate this action.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, July 23, 2008





Alan C. Kay
Sr. United States District Judge

Eline v. Frank, Civ. No. 08-00321 ACK-KSC; ORDER OF DISMISSAL PURSUANT TO 28 U.S.C. §1915(g)